

# Citizens for Environmental Justice in Pelham

July 18, 2016

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

## FREEDOM OF INFORMATION ACT REQUEST

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
Office of Environmental Information  
Records, FOIA, and Privacy Branch  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

Regional Freedom of Information Officer  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, Southwest  
Atlanta, Georgia 30303

Dear Sir or Madam:

This request is made under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), on behalf of the Citizens for Environmental Justice in Pelham. Specifically, this request concerns United States Environmental Protection Agency (EPA) records related to the Superfund Site ID#GAD003300092 – Stoller Chemical Company/Pelham Phosphate Company in Pelham, Georgia.

The Citizens for Environmental Justice in Pelham respectfully request a full accounting of the actual amount of contamination to the soil and groundwater caused by the uncontrolled toxic runoff from the facility's impoundments into the adjacent neighborhood.

In addition, we seek:

- (1) List of names, title, and role of any EPA staff members affiliated with Superfund site ID#GAD003300092 in any capacity.
- (2) Name and contact for the contracted vendor assigned for the site cleanup work at Superfund site ID#GAD003300092.
- (3) The total contract value paid to the contracted vendor assigned to the cleanup activities at Superfund Site ID#GAD003300092.

- (4) A full description of each toxic item discovered at the Superfund Site ID#GAD003300092 along with their known danger to human life and the environment.
- (5) A map with full description of the total geographical area impacted by the toxic runoffs affiliated with the Superfund Site ID# GAD003300092.
- (6) Copy of all the hauling manifest/logs that outlines and describes the volume of contaminated soil excavated from Superfund Site ID#GAD003300092.
- (7) Location for the designated disposal site(s) whereby all excavated soil from Superfund Site ID#GAD003300092 was disposed.
- (8) Copy of all Public Notices posted for the community that were affiliated with Superfund Site ID#GAD003300092.
- (9) Copy of all minutes from any and all Public Hearings whereby the public made comments or staff made presentations affiliated with Superfund Site ID#GAD003300092.

The documents sought by the present request include any written, recorded, or graphic material that is in the agency's possession, custody, or control, including agreement contracts, forms, work sheets, maps, memoranda, diaries, reports, surveys, models, studies, letters, data compilations, spreadsheets, telegrams, facsimiles, electronic correspondence (including e-mail in any form), "Power Point" presentations, and notes, minutes, and transcripts of conferences, meetings, and telephone or other communications.

This request is not meant to be exclusive of any other records which, though not specifically requested, would have a reasonable relationship to the subject matter of this request.

The Citizens for Environment Justice in Pelham anticipates that you will make the requested materials available with the statutorily prescribed period. We thus request that you waive any applicable fees in connection with this request. FOIA states that information should be furnished free of charge if "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107(1).

In considering whether the Citizens for Environmental Justice in Pelham meet the fee-waiver test, it is imperative that the EPA remember that FOIA carries a presumption of disclosure, and that the FOIA fee-waiver amendments of 1986 were designed specifically to facilitate access to government records for non-profit, public interest groups such as the Citizens for Environmental Justice in

Pelham without the payment of fees. As stated by one Senator, "agencies should not be allowed to use fees as an offensive weapon against requesters seeking access to Government information..." 132 Cong. Rec. S. 14298 (statement of Sen. Leahy); see also McClellan Ecological Seepage Situation v. Carlucci, 835 F.2d 1282, 1284 (9<sup>th</sup> Cir. 1987) (citing Senator Leahy). This waiver provision was added to the FOIA "in an attempt to prevent government agencies from using high fees to discourage certain types of requesters and requests, in clear reference to requests from journalists, scholars, and, most importantly for our purposes, non-profit public interest groups." Better Gov't Assn v. Department of State, 780 F. 2d 86, 93-94 (D.C. Cir. 1986). Congress and the courts have consistently maintained that the main legislative purpose for the fee waiver is to facilitate access to agency records by "watchdog" organizations, such as environmental groups like the Citizens for Environment Justice in Pelham, which use FOIA to monitor and challenge government activities.

As shown below, the Citizens for Environmental Justice in Pelham meets the two-pronged test under FOIA for a fee waiver, as implemented by the EPA's fee waiver regulations at 40 C.F.R. § 2.107. In evaluating our fee request, it is important to recognize that the U.S. Government agencies, among others, have recognized that (1) our requested information contributes significantly to the public understanding of the operations or activities of the government, (2) our requested information enhances the public's understanding to a greater degree than currently exists, (3) the Citizens for Environmental Justice in Pelham possesses the acumen to analyze, to present and to explain the requested information to the public, and (4) the Citizens for Environmental Justice in Pelham possesses the ability to disseminate the requested information to a broad audience of the general public.

We invite you to contact us as soon as possible if any of our requested materials needs clarification. Furthermore, if for some reason copies of certain records cannot be made or provided, we request an opportunity to view and inspect those records.

Thanking you in advance for your immediate attention.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W.C. McCormick', written over the typed name.

William C. McCormick, MBA

on behalf of the Citizens for Environmental Justice in Pelham.